IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 2384 of 2004

Between:

T.Narasimharaju, S/o. Thimmappa , Noolukunta P.A.C.S.Mallamur Post, Kuppam Mandal, Chittoor

..... PETITIONER

AND

1 The District Co-operative Officer Chittoor, Chittoor District.
2 The Divisional Co-operative Officer Madanapalli, Chittor District.
3 The Person-in-Charge/President, Noolukunta P.A.C.S., Kuppam Mandal, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order direction or writ particularly one in nature of writ of Mandamus declaring the impugned action of the 2nd respondent in directing the 3rd respondent to remove the services of the petitioner Vide Rc.No.279/2001-D, dt:29-11-2003 and the circular in Rc.No.516/2003 C Dt 9-2003 issued by the 1st respondent proposing to remove from services without enquiry and without giving opportunity is illegal, arbitrary to the judgment reported in 1998 AIR SC W 3186 (Vasudevo Tiwari Vs. Sido Kinho University) and consequently set-aside the impugned removal notice issued by the 2nd respondent Vide RC.No.279/2001-D Dt:29-11-2003 and Circular in RC.No. 516/2003 C Dt.9-2003 of the 1st respondent.

Counsel for the Petitioner: MR.M.VENKATA RAMANA REDDY

Counsel for the Respondent No1&2.: GP FOR COOPERATION

The Court made the following :

ORAL ORDER:

The petitioner, who is an accountant in the Noolukunta P.A.C.S., Mallamur Post, Kuppam Mandal, Chittoor District, filed this writ petition questioning the order of the second respondent i.e., The Divisional Cooperative Officer, Madanapalle, Chittoor District, issued in his proceedings Vide Rc.No.279/2001-D, dt: 29-11-2003, directing the third respondent PACS to remove the services of the petitioner, who is said to have been appointed irregularly, as illegal and against the principles of natural justice. It is further stated that as per the circular of the District Co-operative Officer, Chittoor, in RC No. 516/03, C. dated -09-2003, the appointment of the petitioner cannot be removed as his appointment was made prior to 25-11-2003 i.e., before Act 2 of 1994 came into force.

I have already held in ***WP No. 3171 of 2003 & Batch***, dated 30th August 2004 that in so far as the appointments of staff of Primary Agricultural Cooperative Societies are concerned, the same shall be strictly in accordance with Section 116-C of the A.P. Cooperative Societies Act 1964. Neither the Society nor the Registrar of Cooperative Societies have got any power to violate the mandatory provisions of Section 116 C of the said Act. Whether the appointments were made before or after Act 2 of 1994, they have got to be removed if the staff pattern and the pay scales are not fixed by the Society and approved by the Registrar of Cooperative Societies, fulfilling the conditions that the expenditure towards pay and allowances of the

employees shall not exceed two per cent of the working capital or thirty per cent of gross profit in terms of the actuals in a year whichever is less.

Accordingly, the third respondent is directed to pass a reasoned order disclosing the material particulars as to whether the staffing pattern was fixed and whether the appointment of the petitioner is against one of the posts approved as per the staffing pattern. If the appointment of the petitioner is not against the post ear-marked under the staffing pattern then the petitioner has no right to continue in the society and if his appointment is made in one of the posts as per the approved staffing pattern, the petitioner can be continued.

The writ petition is accordingly disposed of as indicated above. No order as to costs.

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V. ESWARAJAIH, J

Dt.13-09-04

Kvrk

To

1 The District Co-operative Officer Chittoor, Chittoor District.
2 The Divisional Co-operative Officer Madanapalli, Chittor District.
3 The Person-in-Charge/President, Noolukunta P.A.C.S.,Kuppam Mandal,

Chittoor District

4. Two CCs to GP FOR COOPERATION , High Court of A.P., Hyd. (OUT)

5. Two CD copies